

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

ROBERT BROWN.

Petitioner,

V.

RICHARD MORGAN,

Respondent.

Case No. C05-5280FDB

**ORDER CHANGING CASE
CAPTION, CLOSING SECOND
CASE OPENED AND DIRECTING
SERVICE AND RETURN,
§ 2254 PETITION**

The petitioner in this action is seeking federal habeas corpus relief pursuant to 28 U.S.C. § 2254. This case has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. §§ 636 (b) (1) (A) and 636 (b) (1) (B) and Local Magistrates' Rules MJR 3 and MJR 4.

There has been some confusion with regard to this action. The petitioner in this case is Robert Brown, not Richard Brown. **The clerks office is directed to correct the case caption.** Mr. Brown paid the filing fee and this action is ready to proceed. Mr. Brown also filed an identical petition under cause number 05-CV- 5314RJB. This case will proceed under the first filing number, 05-CV-5280FDB. **The clerks office is directed to administratively close 05-CV- 5314RJB.**

(1). The clerk shall arrange for service by certified mail upon respondent, a copy of the petition, of all documents in support thereof, and of this Order. All costs of service shall be

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1 advanced by the United States. The Clerk shall assemble the necessary documents to effect service.
2 The Clerk shall send petitioner a copy of this Order, the General Order.

3 (2) Within forty-five (45) days after such service, respondent shall file and serve an
4 answer in accordance with Rule 5 of the Rules Governing § 2254 Cases in United States District
5 Courts. As part of such answer, respondents should state whether petitioner has exhausted available
6 state remedies, whether an evidentiary hearing is necessary, and whether there is any issue of abuse
7 of delay under Rule 9. Respondent shall not file a dispositive motion in place of an answer without
8 first showing cause as to why an answer is inadequate. Respondent shall file the answer with the
9 Clerk of Court and serve a copy of the answer upon petitioner.

10 (3) The answer will be treated in accordance with Local Rule CR 7. Accordingly, upon
11 receipt of the Answer the Clerk will note the matter for consideration on the fourth Friday after the
12 answer is filed, petitioner may file and serve a response not later than on the Monday immediately
13 preceding the Friday appointed for consideration of the matter, and respondent may file and serve a
14 reply brief not later than on the Thursday immediately preceding the Friday designated for
15 consideration of the matter.

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18 DATED this 17th day of August, 2005.

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Karen L. Strombom

United States Magistrate Judge

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